

### **REMARKS**

Claims 1-11 and 15-30 have been canceled without prejudice or disclaimer of subject matter. Applicants note that many of the canceled claims have already been allowed in the parent application (U.S. Patent No. 6,869,953) or have otherwise been withdrawn by the Examiner. Claims 12-14 have been amended to clarify that the compounds listed include pharmaceutically acceptable salts. New claims 31-36 have been added and are fully supported by the specification and original claims. New claims 31-36 are similar to the composition and method claims allowed in the parent application except that they incorporate the compounds previously withdrawn by the Examiner as nonelected in the parent application (the compounds recited in claims 12-14). Accordingly, claims 12-14 and 31-36 are currently pending in the present application. The Applicants expressly rebut any presumption that the Applicants have surrendered any equivalents under the doctrine of equivalents and expressly state that the claims, as amended, are intended to include and encompass the full scope of any equivalents as if the claims had been originally filed and not amended.

### **Claim Rejections Under 35 U.S.C. §112**

The Examiner rejects claims 1-4, 7, 19-22 and 27-30 under 35 USC §112, second paragraph, as being indefinite. The Examiner also rejects claims 1-5, 7-20, and 27-30 under 35 USC §112, first paragraph, as lacking enablement.

The Applicants respectfully submit that the above rejections are rendered moot, as Applicants have canceled, without prejudice or disclaimer of subject matter, those claims subject to rejection under 35 USC §112. Accordingly, the Applicants respectfully request that the rejections under 35 USC §112 be withdrawn.

Claim Rejections Under 35 U.S.C. §102

Claims 1, 2, 4, 19, and 21-22 have been rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by Hatchard, Zarin, Gortinskaja, Balaban, Holan, Prewsz-Kwinto, Hudkins, Zalesov, Salakhov, Friedrich, Vyas, Rastogi, and Suzuki.

Applicants respectfully submit that the above rejections are rendered moot, as Applicants have canceled, without prejudice or disclaimer of subject matter, those claims subject to the rejection under 35 USC §102(b). Accordingly, the Applicants respectfully request that the rejections under 35 USC §102(b) be withdrawn.

Obviousness Type Double Patenting Rejection


Claims 1-4, 7-14, 17-22 and 27-30 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 7-11, 17-18, and 34-47 of copending Application No. 10/212,901.

Applicants respectfully request that the above rejections be withdrawn because the subject matter embraced by the pending claims, as amended, do not overlap with claims 7-11, 17-18, and 34-47 of copending Application No. 10/212,901 (now U.S. Patent No. 6,869,953). In addition, the Examiner is prohibited from rejecting the pending claims because the Examiner imposed a restriction requirement and withdrew the subject matter of the pending claims in the parent application. See 35 U.S.C. §121 and MPEP §804.01, entitled, "Prohibition of Double Patenting Rejections Under 35 U.S.C. §121." Accordingly, the Applicants respectfully request that the rejection under the judicially created doctrine of obviousness-type double patenting be withdrawn.

Application No.: 10/823,211  
Filed: April 13, 2004

No fee is believed to be due with the filing of this Amendment. However, if any fee is deemed necessary, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 08-2525.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brian Remy", is written over a horizontal line.

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